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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,735	07/02/2003	John G. Liebl	M297.12-0298	5811
7590	08/25/2004		EXAMINER	
Nickolas E. Westman Westman, Champlin & Kelly Suite 1600 900 Second Avenue South Minneapolis, MN 55402-3319			BEACH, THOMAS A	
			ART UNIT	PAPER NUMBER
			3671	
			DATE MAILED: 08/25/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/612,735	LIEBL, JOHN G.
	Examiner Thomas A Beach	Art Unit 3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on amendment filed 06/10/04.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 6-8, 12 and 14 is/are allowed.
- 6) Claim(s) 1,2,9-11 and 13 is/are rejected.
- 7) Claim(s) 3 and 5 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION***Claim Objections***

1. Claim 1 is objected to because of the following informalities: on lines 13-14, "to be substantially in registry with the base chute section" is unclear since this terminology and description is not consistent with the specification. What is meant by registry and how can the pivot be in registry? Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. Claims 9-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by James 2,408,857.

As concerns claim 9, James shows a snow blower attachment for prime mover comprising housing having a snow feeder, powered impeller 29 for receiving snow from the snow feeder and projection the snow upwardly, discharge chute for receiving the snow from the impeller as for discharging snow at raised position, and an upper section 34 pivotally mounted together about generally horizontal pivot, the upper chute forming an extension of the base chute 34 section working position and section being foldable downwardly about the pivot, a support bracket 42 on the upper chute section that engages and supported on a portion of the housing (indirectly via elements 35 & 36) when the upper section is in a downwardly folded position for storage.

As concerns claim 10, James shows the support comprises a strut 37 that has one end pivotally mounted to the upper chute section, the strut having a second end

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connectable to the base chute section to support the upper chute section in a working position.

As concerns claim 11, James shows the strut 37 extending from the pivot of the one end an attachment on the base chute section below the pivotal mounting between the base chute section and upper chute section (figure 3), and when the upper chute section is folded downwardly (dotted position), the strut extending from the pivot of the one end to rest on the housing.

As concerns claim 13, James shows the housing has an upper edge extending between side plates, and the strut has a support thereon that rests on the upper edge when the upper chute section is in the folded position.

1. Claims 1-2, 9-11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Husso 4,651,452. Husso shows a snow remover with a housing for collecting snow to be removed, a powered impeller 2 for receiving snow from the front opening of the housing and projecting snow upwardly, discharge chute receiving the snow from the impeller and providing a passage for the snow an outer end of the chute, the discharge chute having a base section 41 mounted adjacent the impeller, and an upper chute section 42 pivotally mounted to an upper end of the base chute section about generally horizontal pivot (considered to be at the forward side of the base chute section at least at one point since this pivot axis intersects the front forward side), the upper chute section forming an extension of the base chute section a working position, and being foldable downwardly about the pivot (figure 1, dotted) and substantially in registry with the base chute section with an upper portion below the upper edge of the

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housing (figure 1), and a support saddle 45 on the upper chute section that engages a portion of the housing when the upper section is in a downwardly folded position for storage (col. 4, lines 40-41).

As concerns claim 2, Husso shows the apparatus of claim wherein the support saddle is mounted onto a movable strut 44 that is pivotally mounted to the upper chute section, and the strut having an end supportable on the base chute section when the outer chute section in the working position.

As concerns claim 9, Husso shows a snow blower attachment for prime mover comprising housing having a snow feeder, powered impeller 2 for receiving snow from the snow feeder and projecting the snow upwardly, discharge chute (considered at the rear end of the housing in figure 2, in relative terms) for receiving the snow from the impeller as for discharging snow at raised position, and an upper section 42 pivotally mounted together about generally horizontal pivot (considered to be at the forward side of the base chute section at least at one point since this pivot axis intersects the front forward side), the upper chute forming an extension of the base chute section 41 working position and section being foldable downwardly about the pivot, a support bracket 45 on the upper chute section that engages and supported on a portion of the housing when the upper section is in a downwardly folded position for storage (col. 4, lines 40-41)..

As concerns claim 10, Husso shows the support comprises a strut 44 that has one end pivotally mounted to the upper chute section, the strut having a second end releasably connectable (since the actuator is capable of being removed, thus

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releasable) to the base chute section to support the upper chute section in a working position (element 45 is connected both to the top of the housing and the base chute section, Figure 1).

As concerns claim 11, Husso shows the strut 44 extending from the pivot of the one end an attachment on the base chute section below the pivotal mounting between the base chute section and upper chute section, and when the upper chute section is folded downwardly, the strut 44 extending from the pivot of the one end to rest on the housing (via element 45).

As concerns claim 13, Husso shows the housing has an upper edge extending between side plates, and the strut has a support thereon that rests on the upper edge when the upper chute section is in the folded position (figure1, considered between the end, the side plates).

Allowable Subject Matter

2. Claims 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
3. Claims 6-8, 12, and 14 are allowed.

Response to Arguments

4. Applicant's arguments filed 06/10/04 have been fully considered but they are not persuasive. Applicant's arguments regarding the James and Husso references and in

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particular to claims 1, 8, and 9 are noted. However, in response to applicant's argument that these references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the upper chute is forwardly folded into the front opening and supported by the housing or the exact orientation of the hinge) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A Beach whose telephone number is 703.305.4848. The examiner can normally be reached on Monday-Thursday, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703.308.3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 or 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4198.

Thomas A. Beach

August 17, 2004

Thomas B. Will
Supervisory Patent Examiner
Group 3600